


PRE-APPEAL BRIEF REQUEST FOR REVIEW (filed with the Notice of Appeal)		Docket Number 042933/313264
Application Number 10/584,748	Filed April 16, 2007	
First Named Inventor: Nigel Richardson		
Art Unit 2622	Examiner Anthony J. Daniels	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p style="text-align: right;">Respectfully submitted,</p> <p style="text-align: right;">  Jonathan A. Thomas Registration No. 62,200 </p> <p>Date <u>3/18/2010</u></p> <p>Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Charlotte Office (704) 444-1000 Fax Charlotte Office (704) 444-1111</p> <p>ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON March 18, 2010. LEGAL02/31816278v1</p>		

ATTACHMENT

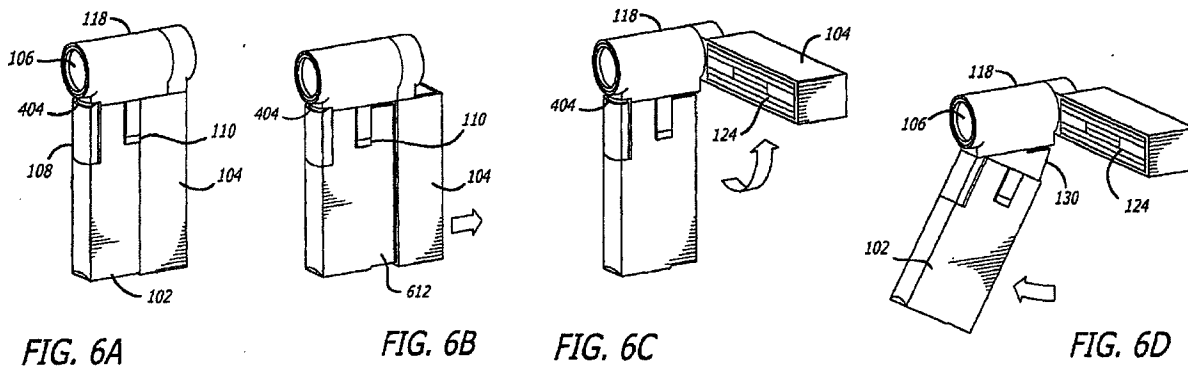
Reasons for Requesting Pre-Appeal Brief Request for Review

These remarks are hereby filed concurrent with a Pre-Appeal Brief Request for Review and following a final Official Action dated December 4, 2009 and an Advisory Action dated February 18, 2010. The final Official Action rejects claims 14 and 21 as indefinite. The After Final amendment filed on February 4, 2010 and entered per the Advisory Action has corrected these issues. Claims 1-6, 8-11, 14-18, 20, and 21 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 7,359,003 to Knighton et al. (hereinafter "Knighton"). Claim 7 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Knighton in view of U.S. Patent No. 5,719,799 to Isahi (hereinafter "Isahi"). Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Knighton in view of U.S. Patent No. 6,636,259 to Anderson et al. (hereinafter "Anderson"). Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Knighton, in view of Anderson, and in further view of another embodiment of Knighton. The Official Action has further rejected claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Knighton. Based on the following remarks, reconsideration of the present application and allowance of the amended set of claims is respectfully requested.

Embodiments of the present invention generally relate to a mobile communication station including a camera and a body that comprises two portions that may be mechanically coupled to one another by a linkage that permits rotation of one of the portions relative to the other. The body is relatively elongate about a first axis and the linkage permits rotation of one of the portions relative to the other about an axis parallel to the first axis. One of the portions has a grip for being gripped by a user during use of the communication station. The grip has a first compact configuration and a second configuration in which the grip is expanded relative to the first configuration. When the grip is in the second, expanded configuration, the expanded grip improves the user's grip on the mobile communication station.

The first embodiment of Knighton, reproduced below, discloses a camera which includes three main sub-assemblies: a grip 102, a display assembly 104, and an optic sub-assembly including a lens 106. As illustrated in Fig. 6a to 6d, the camera may be manipulated by a user into a variety of physical configurations. Fig. 6a illustrates a compact configuration where

actuation of a release 110 causes the display assembly 104 to transition away from the grip 102 (Fig 6b). The display 104 is then rotatable relative to the grip 102 and to the optic assembly (Fig 6c). The grip 102 is also movable relative to the optic assembly and the display assembly 104 as it may be tilted backwards and forwards (Fig. 6d).



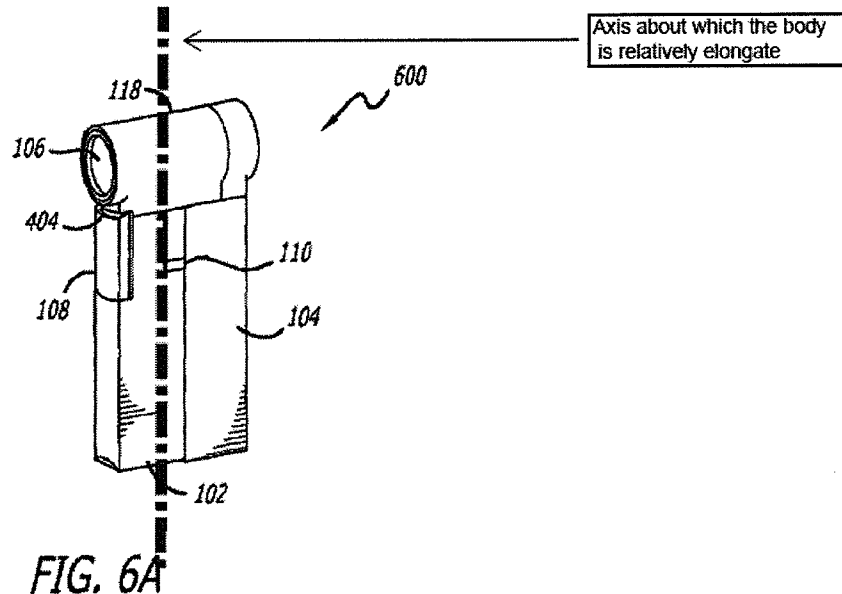
Claim Rejections of 1-18, 20-22 in view of Knighton

On page 2 of the final Office Action, the Examiner states "The examiner agrees that one of ordinary skill in the art may appreciate that the word 'communication' relates to mobile to mobile communication. However, the specification is replete with mention of keys and input operators of the station that inherently rely on communication between intra-station components to perform the assigned functions. In light of this, the examiner submits that both types of communication (intra-station component and mobile to mobile) are present in the mobile communication station of the present invention. Accordingly, one of ordinary skill in the art would recognize that either interpretation is reasonable in light of the disclosure of the specification." Applicant respectfully disagrees. The specification of the present application only discusses 'communication' in relation to a mobile station communicating with other devices (see paragraph [0048] of the published application). Furthermore, the description goes into detail concerning how this communication may take place (e.g., wireless communication, radio communication). A person of ordinary skill in the art would understand from this disclosure that "a mobile communication station" is a mobile station that is able to communicate with other devices. A person of ordinary skill in the art would also not consider a mobile station that is only capable of intra station communication as a mobile communication station as alleged by the examiner (i.e., a calculator is not a mobile communication station). Knighton merely discloses a

camera that is not able to communicate with other devices. Consequently, Knighton does not disclose “a mobile communication station” as recited in claim 1 and a person of ordinary skill in the art would not describe any embodiment of Knighton as a “mobile communication station.”

The Office Action further alleges in the rejection of claim 1 that “the first axis” recited in claim 1 is an axis that is tangential to the lens housing in a direction parallel to the direction that the camera points. A person of ordinary skill in the art would readily interpret the element of claim 1 that recites “a body that is relatively elongate about a first axis” to mean a body that has a length along the first axis that is greater than the width of the body. The Examiner has equated the body of claim 1 with the lens housing 118, display assembly 104, grip 102, and breech 130. The Examiner’s analysis and interpretation of the “first axis” is contrary to the well established definition of the language of the claim. *The American Heritage® Dictionary of the English Language, Fourth Edition* defines “elongate” as “having more length than width; slender.” The housing 118, display assembly 104, grip 102, and breech 130 of Knighton are not elongate about the axis as recited and illustrated by the Examiner. The body, as defined in the claimed invention, comprises *inter alia* “two portions which are mechanically coupled to each other by a linkage that permits rotation[.]” The Examiner cites element 104 of Knighton as being part of “the body” and therefore, “the body” is not elongate about an axis that is perpendicular to the lens as indicated by the Examiner.

FIG. 6A of Knighton is reproduced below with a “first axis” as defined by the claimed invention added in view of what the Examiner has defined as “the body.”



As illustrated above, the “body” of Knighton formed by the lens housing 118, the display assembly 104, the grip 102, and the breech 130 is elongate about the axis shown (added by the Applicant for illustration). The illustrated axis is perpendicular to the axis suggested by the Examiner in the Final Office Action.

Further, as recited in independent claim 1, the body “comprises two portions which are mechanically coupled to each other by a linkage that permits rotation of one of the portions relative to the other about an axis substantially parallel to said first axis[.]” As the “first axis” defined in the claims is shown in the illustration of Knighton above, it is not possible for the “first portion” 104 to rotate about an axis parallel to the illustrated axis relative to the “second portion” 102, particularly when the “linkage” is the lens housing 108 as each element has been defined in the Office Action by the Examiner.

In view of the above, it would not be obvious to adapt Knighton to include the above mentioned features of independent claim 1. Further, there is no motivation for a person of ordinary skill in the art to adapt the camera to be a mobile communication station. Further still, there is no motivation for a person of ordinary skill in the art to adapt the camera of Knighton such that the respective portions are rotatable with respect to one another about the axis as recited in independent claim 1. Consequently, independent claim 1 is not anticipated by Knighton.

None of the cited prior art teaches or suggests a mobile communication station having a body that comprises two portions and that one of the portions has an expandable grip. The cited prior art is only related to digital cameras and none of the cited references disclose a mobile communication station. The cited prior art teaches generally that the grip of a user may be improved by providing a movable grip or a grip that includes a material such as an elastomer (as disclosed in Knighton). There is no teaching or suggestion in any of the cited prior art that would motivate a person of ordinary skill in the art to adapt a digital camera to include the features of amended claim 1.

Further, since none of the cited prior art disclose providing an expandable grip, it would not be obvious or possible for a person of ordinary skill in the art to combine the teachings of these documents and arrive at a device that includes the features of amended claim 1. Consequently, independent claim 1 is not obvious in view of any of the cited prior art documents when considered alone or in combination.

In view of the amendments and the remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the independent claims has been argued as set forth above and thus Applicant will not take this opportunity to argue the merits of the rejection with regard to specific dependent claims. However, Applicant does not concede that the dependent claims are not independently patentable and reserves the right to argue the patentability of dependent claims at a later date if necessary.